



PTO/SB/21 (09-06)

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**TRANSMITTAL  
FORM**

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Total Number of Pages in This Submission

- 17 -

Application Number	09/544,808
Filing Date	April 7, 2000
First Named Inventor	Ibrahim SEZAN
Art Unit	2623
Examiner Name	C. LAMBRECHT
Attorney Docket Number	KLR 7143.066

**ENCLOSURES (Check all that apply)**

- |  |  |  |
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| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><input checked="" type="checkbox"/> Appeal Communication to TC<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify<br>below):<br>Certificate of Mailing Under 37 CFR 1.8<br>Check #75436 (\$500) for appeal brief fee<br>Receipt Acknowledgment Postcard |
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Remarks

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name Chernoff, Vilhauer, McClung &amp; Stenzel, LLP

Signature

Printed name Kurt Rohlf

Date February 12, 2007

Reg. No. 54,405

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

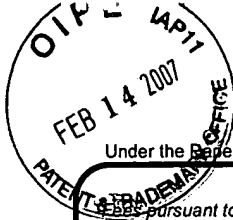
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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (07-06)

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**FEE TRANSMITTAL**  
**For FY 2006**☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) - 500.00 -

**Complete if Known**

Application Number	09/544,808
Filing Date	April 7, 2000
First Named Inventor	Ibrahim SEZAN
Examiner Name	C. LAMBRECHT
Art Unit	2623
Attorney Docket No.	KLR 7146.066

**METHOD OF PAYMENT (check all that apply)**☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 03-1550 Deposit Account Name: Chernoff, Vilhauer et al

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims
- 20 or HP =	x	=		Fee (\$)
HP = highest number of total claims paid for, if greater than 20.				
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	
- 3 or HP =	x	=		Fee Paid (\$)
HP = highest number of independent claims paid for, if greater than 3.				

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal brief fee [37 CFR 41.20(b)(2)] (large entity)

Fees Paid (\$)

- 500 -

**SUBMITTED BY**

Signature		Registration No. (Attorney/Agent) 54,405	Telephone (503) 227- 5631
Name (Print/Type)	Kurt Rohlf		Date February 12, 2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant:	Sezan	Group Art Unit:	2623
Serial No.:	09/544,808	Examiner:	Lambrecht, C.
Filed:	April 7, 2000	Customer No.:	55648
Title:	AUDIOVISUAL INFORMATION MANAGEMENT SYSTEM		

**APPELLANT’S BRIEF**

Chernoff, Vilhauer, McClung, and Stenzel, L.L.P.  
1600 ODS Tower  
601 SW Second Avenue  
Portland, Oregon 97204

February 12, 2007

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Dear Sir:

## BACKGROUND

This brief is in furtherance of the Notice of Appeal, filed in this case on December 12, 2006.

The fees required under 37. C.F.R. § 41.20(b)(2), and any required petition for extension of time for filing this brief and fees therefore, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief comprises these subjects under the headings, and in the order, set forth below:

- I. Real Party in Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds for Rejection to be Reviewed on Appeal
- VII. Argument
- VIII. Conclusion
- IX. Claims Appendix
- X. Evidence Appendix
- XI. Related Proceedings Appendix

The final page of this brief bears the practitioner's signature.

### **REAL PARTY IN INTEREST**

The real party in interest in this appeal is Sharp Laboratories of America, Inc., assignee of the captioned application.

### **RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences that will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

## **STATUS OF CLAIMS**

### A. TOTAL NUMBER OF CLAIMS IN THE APPLICATION

There are 6 claims currently pending in the application.

### B. STATUS OF ALL CLAIMS

Claims canceled: 6-94

Claims withdrawn: None

Claims pending: 1-5, and 95

Claims allowed: None

Claims objected to: None

Claims rejected: 1-5, and 95

### C. CLAIMS ON APPEAL

Claims 1-5 and 95 are on appeal.

A copy of the claims on appeal is set forth in the Claims Appendix to this Brief.

## **STATUS OF AMENDMENTS**

No amendment was filed after final rejection.

## **SUMMARY OF CLAIMED SUBJECT MATTER**

The claimed subject matter, as set forth in independent claim 1, is generally directed to a method of using a system with at least one of audio, image, and a video comprising a plurality of frames. Specifically, the claimed method provides a usage preferences description, describing preferences of a user with respect to the use of the at least one audio, image, and video (*See, e.g.* FIG. 1; *see also* Specification at p. 9 lines 5-8 and p. 10 line 8 to p. 11 line 29), and where the

usage preferences description includes multiple preferences (*See, e.g.* Specification at 41 line 22 to p. 43 line 25; p. 55 lines 3-22; and p. 57 lines 18-24). Furthermore, the claimed method provides a protection attribute with respect to a selected set of preferences indicating whether the preferences in the set selected are considered public or private, where the protection attribute comprises a binary number having a number of bits equal to the number of preferences in the selected set, and where each bit of the binary number indicates whether a particular preference in the selected set is to be public or private (*See, e.g.* Specification at p. 67 lines 1-13; p. 71 line 10; and p. 72 lines 1-2).

#### **GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

The grounds of rejection presented for review are whether claims 1-5 and 95 are unpatentable under 35 U.S.C. § 103(a) over Dedrick, U.S. Pat. No. 5,696,965 (hereinafter Dedrick), in view of O'Flaherty et al., U.S. Pat. No. 6,253,203 (hereinafter O'Flaherty).

#### **ARGUMENT**

The Examiner rejected claims 1-5 and 95 under 35 U.S.C. § 103(a) as being obvious in view of the combination of Dedrick and O'Flaherty. A rejection of a claim under 35 U.S.C. § 103(a) in view of a combination of prior art references is proper only if each and every limitation in the claim is either found or suggested in the combination recited. This requirement has not been met by the Examiner. Specifically, independent claim 1, from which the remaining pending claims depend, recites the limitation of "providing a protection attribute with respect to a selected set of said preferences indicating whether the preferences in said selected set are considered public or private, said protection attribute comprising a binary number having a

number of bits equal to the number of preferences in said selected set and where each bit of said binary number indicates whether a particular preference in said selected set is to be public or private.” This limitation is neither taught nor suggested by either of Dedrick or O’Flaherty.

First, the Examiner misreads the secondary reference O’Flaherty. The Examiner contends that O’Flaherty discloses the claimed limitation of a “protection attribute comprising a binary number having a number of bits equal to the number of preferences in said selected set, and where each bit of said binary number indicates whether a particular preference in said selected set is to be public or private.” It does not. O’Flaherty discloses a protection attribute comprising at least a five-bit number-per-preference. *See, e.g.* O’Flaherty at col. 9 lines 32-36 (stating that a minimum of 5 opt out flags will be used per customer record, each flag being a bit – i.e. a “0” or a “1”); *Id.* at col. 10 lines 9-16 (stating an embodiment where each class of opt out, of which there are at least 5, could be applied “separately to each category of personal data). Stated differently, O’Flaherty discloses a general embodiment that permits customers to select values for each opt out flag (of which there are a minimum of 5), each opting out of a certain use for the customer’s *collection* of personal data. *See* FIG. 2 of O’Flaherty (which uses 6 flags). O’Flaherty later discloses a more fine-tuned system permitting customers to check flags for each preference within their record. But even in this latter embodiment, there are still at least five flags (bits) per preference, as opposed five flags per customer record in the first embodiment. In either case, O’Flaherty fails to disclose a one-bit-per-preference protection attribute.

Second, there would be no motivation in the prior art to modify Dedrick so as to arrive at the limitation claimed, irrespective of what secondary reference were used. The Examiner contends that Dedrick teaches the limitation of “providing a protection attribute with respect to a selected set of said preferences indicating whether the preferences in the selected set are

considered public or private.” *See* Office Action at p. 2. Though true, the Examiner cites the wrong disclosure in Dedrick. Dedrick teaches protecting a personal profile database from access by others who have access to a user’s computer, by encrypting in whole a personal profile when it is not in use. *See* Dedrick at col. 5 lines 51-56; *see also* Office Action dated January 27, 2006 (wherein the Examiner correctly cites to this disclosure in Dedrick as teaching the relevant limitation). Moreover, Dedrick teaches that the number of attributes in the personal profile will vary, depending on which attributes the user chooses to omit from the profile. *See* Dedrick at col. 7 lines 26-29. Given that Dedrick’s encryption key must be complex (so that it cannot easily be broken), as well as the user-selected number of attributes in the profile, it cannot be plausibly argued either that Dedrick teaches the claimed limitation of an encryption key “comprising a binary number having a number of bits equal to the number of preferences in said selected set, and where each bit of said binary number indicates whether a particular preference in said selected set is to be public or private” or that it would be obvious to modify Dedrick to have an encryption key with such a characteristic. Stated otherwise, modifying Dedrick’s encryption key to comprise a binary value having a number of bits equal to the number of preferences, each bit representing whether that preference is public or private, would not only be infeasible (due to the unknowable number of preferences in the personal profile database), but would thwart the very purpose of Dedrick’s encryption key by making it a trivial exercise to crack the key.

Perhaps recognizing the futility in arguing that it would be obvious to modify Dedrick’s *encryption key* so as to teach applicant’s claimed limitation, the Examiner now cites another portion of Dedrick as teaching a “protection attribute.” *See* Office Action dated September 8, 2006 (citing Dedrick at col. 7 lines 3-35). This portion of Dedrick, however, merely discloses that a user may elect to omit chosen preferences/attributes from the database itself. Thus, while

Dedrick's system has the capability of precluding user-selected preferences from inclusion in the database, this capability would naturally obviate any need for a "protection attribute comprising a binary number having a number of bits equal to the number of preferences in said selected set, and where each bit of said binary number indicates whether a particular preference in said selected set is to be public or private." (The applicant notes that the Examiner may well be reading the term "attribute" broadly enough to read on a "function" or "capability" of the system of Dedrick. Although proper, such a claim interpretation is at odds with a later "bait and switch" modification that uses the term "attribute" as an actual value or information attribute used in the system of Dedrick). Furthermore, by adding the functionality of an ability on the part of a user to exclude selected preferences from the database itself, Dedrick is actually teaching away from the Examiner's proposed modification; because the preference data for any individual is only used when statistically compiled with data from other users, the provided functionality of allowing a user to select which preferences are submitted teaches away from a proposed substitution of adding useless data to the database, only to include flags or other information precluding their use in that database.

Therefore independent claim 1, as well as its dependent claims 2-5 and 95 patently distinguish over the cited combination of Dedrick and O'Flaherty, and the Examiner's rejection of claims 1-5 and 95 under 35 U.S.C. § 103(a) should be reversed.

**CONCLUSION**

The Examiner's respective rejections of claims 1-5 and 95 should be reversed, and the claims should be found patentable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kurt Rohlf", with a long, sweeping horizontal line extending to the right.

Kurt Rohlf  
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## **CLAIMS APPENDIX**

1. A method of using a system with at least one of audio, image, and a video comprising a plurality of frames comprising the steps of:
  - (a) providing a usage preferences description, describing preferences of a user with respect to the use of said at least one audio, image, and video, where said description includes multiple preferences; and
  - (b) providing a protection attribute with respect to a selected set of said preferences indicating whether the preferences in said selected set are considered public or private said protection attribute comprising a binary number having a number of bits equal to the number of preferences in said selected set and where each bit of said binary number indicates whether a particular preference in said selected set is to be public or private.
2. The method of claim 1 wherein said at least one of said audio, image, and video is video.
3. The method of claim 2 further comprising the step of limiting access to preferences associated with the said protection attribute based upon said protection attribute.
4. The method of claim 3 wherein said access is limited to a remotely located service provider of said video.
5. The method of claim 1 wherein said protection attribute is a binary value.

6-94 (Canceled).

95. The method of claim 1 wherein said selected list includes all of said preferences.

**EVIDENCE APPENDIX:**

None.

**RELATED PROCEEDINGS APPENDIX:**

None.